

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

TIMOTHY E. WRIGHT, )  
Petitioner, )  
v. ) Case No. CIV-16-923-D  
TRACY McCOLLUM, )  
Respondent. )

**ORDER**

Plaintiff, a prisoner appearing *pro se*, brings this action under 28 U.S.C. § 2241, challenging his state court convictions and revocation of his suspended sentences.<sup>1</sup> The matter was referred to Magistrate Judge Gary M. Purcell for proceedings consistent with 28 U.S.C. § 636(b)(1)(B). On September 30, 2016, Judge Purcell issued a Report and Recommendation [Doc. No. 10] in which he recommended the Court dismiss the Petition without prejudice for lack of exhaustion and, alternatively, with prejudice as untimely.

In his Report and Recommendation, Judge Purcell advised Petitioner of his right to file an objection to the same and directed Petitioner to file his objection no later than **October 20, 2016**. Judge Purcell further admonished Petitioner that failure to timely object would constitute a waiver of the right to appellate review of the factual and legal issues addressed in the Report and Recommendation. The deadline for filing an objection has

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<sup>1</sup> To the extent that Petitioner is challenging the validity of his original sentences and the assistance of counsel he received in connection therewith, the Petition is construed as being brought under 28 U.S.C. § 2254. *See Montez v. McKinna*, 208 F.3d 862, 865 (10th Cir. 2000).

expired and, to date, Petitioner has not filed an objection or sought an extension of time in which to do so.

Therefore, the Court hereby ADOPTS the initial recommendation provided in the Report and Recommendation [Doc. No. 10] as though fully set forth herein, and does not reach the alternative recommendation. Accordingly, the Petition is dismissed without prejudice for lack of exhaustion.

IT IS SO ORDERED this 4<sup>th</sup> day of November, 2016.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE